

MIKE THRALLS 3/17/2009

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 W. A. DREW EDMONDSON, in)
4 his capacity as ATTORNEY)
5 GENERAL OF THE STATE OF)
6 OKLAHOMA and OKLAHOMA)
7 SECRETARY OF THE ENVIRONMENT)
8 C. MILES TOLBERT in his)
9 capacity as the TRUSTEE FOR)
10 NATURAL RESOURCES FOR THE)
11 STATE OF OKLAHOMA,)

12 Plaintiff,)

13 vs.)

14 TYSON FOODS, INC, et al.,)
15 Defendants.)

No. 05-CV-00329-GKF-PJ

16 VIDEOTAPED DEPOSITION OF MICHAEL THRALLS,
17 before the undersigned Certified Shorthand Reporter,
18 taken on behalf of the Defendants, at the Attorney
19 General's office of the State of Oklahoma, 313
20 Northeast 21st Street, Oklahoma City, Oklahoma,
21 commencing at 9:05 a.m., on March 17, 2009, pursuant to
22 the stipulations of the parties.

23 _____
24 NICHOLE M. MYERS, RPR, CSR #1704

25 NICHOLS McCLANAHAN REPORTING

Two Main Plaza

616 South Main, Suite 302

Tulsa, Oklahoma 74119-1261

(918) 585-9969 * * * FAX (918) 585-9955

MIKE THRALLS 3/17/2009

2

1 A P P E A R A N C E S

2 ATTORNEY FOR THE PLAINTIFF:

3 MR. ROBERT NANCE

4 MS. SHARON GENTRY

5 Riggs, Abney, Neal

6 Turpen, Orbison & Lewis

7 502 West 6th Street

8 Tulsa, Oklahoma 74119-1016

9

10 and

11

12 MR. TREVOR HAMMONS

13 Assistant Attorney General

14 313 Northeast 21st Street

15 Oklahoma City, Oklahoma 73105

16 ATTORNEY FOR ODAFF:

17 MS. JANET STEWART

18 Oklahoma Conservation Commission

19 2800 North Lincoln Boulevard, Suite 160

20 Post Office Box 528804

21 Oklahoma City, Oklahoma 73152

22 ATTORNEY FOR TYSON FOODS, INC.:

23 MR. BRYAN BURNS

24 Senior Counsel, Legal Department

25 2210 West Oaklawn Drive

Springdale, Arkansas 72762

1

2 ATTORNEY FOR CARGILL:

3

4 MR. COLIN H. TUCKER

5 Rhodes, Hieronymus, Jones,

6 Tucker & Gable

7 100 West 5th Street, Suite 400

8 Tulsa, Oklahoma 74103-4287

9

10 ATTORNEY FOR SIMMONS FOODS (Telephonic):

11

12 MR. JOHN ELROD

13 Conner & Winters

14 211 East Dickson Street

15 Fayetteville, Arkansas 72701

16

MIKE THRALLS 3/17/2009

3

1 ATTORNEY FOR PETERSON FARMS:

2

MR. PHILIP D. HIXON
McDaniel, Hixon, Longwell & Acord
320 South Boston Avenue, Suite 700
Tulsa, Oklahoma 74103

5

ATTORNEY FOR GEORGE'S:

6

MS. JENNIFER LLOYD
Bassett Law Firm
221 North College
Fayetteville, Arkansas 72701

9

ATTORNEY FOR CAL-MAINE:

10

MR. ROBERT SANDERS
Young Williams
2000 AmSouth Plaza
Post Office Box 23059
Jackson, Mississippi 39225

13

14 VIDEOGRAPHER:

15

MR. MICHAEL BALLARD
BALLARD VIDEO PRODUCTIONS, INC.

16

17

18 S T I P U L A T I O N S

19 It is hereby stipulated and agreed by and among
20 the parties hereto that the deposition is being taken
21 pursuant to agreement of the parties.

22 It is further stipulated by and among the parties
23 hereto that all objections, except as to the form of
24 the question, are to be reserved until the time of
25 trial.

MIKE THRALLS 3/17/2009

5

1 TRANSCRIPT OF PROCEEDINGS

2 THE VIDEOGRAPHER: Today's March 17th,
3 2009. We are at the Attorney General's Office in
4 Oklahoma City for the deposition of Mike Thralls in
5 the case of State of Oklahoma versus Tyson Foods. We
6 are on the record at 9:05 a.m.

7 MICHAEL THRALLS,
8 after having been duly sworn to testify the truth, the
9 whole truth, and nothing but the truth, testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. SANDERS:

13 Q. Mr. Thralls, my name is Bob Sanders. I'm
14 a lawyer in this case for Cal-Maine Foods and
15 Cal-Maine Farms. I'm going to be asking you some
16 questions this morning. I know you've been deposed
17 before so I'll -- I'm presuming you're fairly
18 familiar with how this goes so if you need to take a
19 break at any time, just let us know and we'll break.
20 If you don't understand a question, just ask me and
21 I'll try and clear it up for you. Is that all right?

22 A. Okay.

23 MR. NANCE: Bob, if I may, we're
24 stipulating to reserve objections except to the form
25 until time of trial as usual?

MIKE THRALLS 3/17/2009

82

1 and the Legislature.

2 Q. Well, my question's about the legislature.

3 A. Okay. And they have not.

4 Q. And the Governor hasn't told you to stop
5 teaching people how to use litter in the IRW, has he?

6 A. No.

7 Q. And the Secretary of Environment has not
8 told you that, has he?

9 A. No.

10 Q. And ODAFF certainly hasn't done anything
11 to certainly try and ban chicken litter application
12 in the IRW, has it?

13 A. No. Not to my knowledge.

14 Q. All right. Presume if you would -- let me
15 represent to you that the Attorney General in this
16 lawsuit is trying to get an outright ban on the
17 application of chicken litter in the IRW put into
18 place. Does it seem to you that if that's the case
19 that the State of Oklahoma has two different
20 positions on the use of chicken litter in the IRW?

21 MR. NANCE: Object to the form. Has a
22 legal conclusion. The State of Oklahoma's
23 represented in this case by the Attorney General, not
24 by the Legislature, not by the Governor.

25 MR. SANDERS: I understand.

MIKE THRALLS 3/17/2009

83

1 MR. NANCE: That's the law of Oklahoma.

2 MR. SANDERS: That's the basis of my
3 question.

4 MR. NANCE: Passed by the Legislature
5 giving him that authority.

6 MR. SANDERS: Bob, are you saying that the
7 State of Oklahoma, the legislature, has done anything
8 to instruct you-all to prosecute this lawsuit?

9 MR. NANCE: Well, it's given the Attorney
10 Legal the authority to prosecute it.

11 MR. SANDERS: I understand that the
12 Attorney General is the chief legal officer. I
13 understand that.

14 MR. NANCE: And the Legislature doesn't
15 tell each DA to prosecute each defendant. It's a law
16 enforcement action brought by the Attorney General.

17 MR. SANDERS: All right. But of course
18 DA's prosecute on the -- based on violation of laws
19 established by the legislature. We don't need to
20 have --

21 MR. NANCE: As does the Attorney General
22 in this case.

23 MR. SANDERS: Are you saying that it is
24 against the law to spread litter in the IRW?

25 MR. NANCE: That's what the lawsuit's

MIKE THRALLS 3/17/2009

84

1 about.

2 MR. SANDERS: I understand that.

3 MR. NANCE: We've got statutory and common
4 law claims.

5 MR. SANDERS: I understand that.

6 MR. NANCE: And the Legislature's
7 authorized the Attorney General to bring this case.

8 MR. SANDERS: Okay. But I'm just -- are
9 you -- using your DA analogy are you saying that it's
10 against the law to use litter in the IRW?

11 MR. NANCE: Yes.

12 MR. SANDERS: Can you tell me what the
13 basis of that is?

14 MR. NANCE: Well --

15 MR. HIXON: Can I put you under oath if
16 you're testifying?

17 MR. NANCE: Look at the second amended
18 complaint.

19 MR. SANDERS: Is Mr. Thralls violating the
20 law?

21 MR. NANCE: No.

22 MR. SANDERS: He's teaching people how to
23 use litter in the IRW and he's not violating the law
24 even though it's illegal?

25 MR. NANCE: Correct.